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Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

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Committee against Torture

Communication No. 458/2011

Decision adopted by the Committee at its 53rd session (3–28 November 2014)

Submitted by:	X. (represented by counsel, Niels-Erik Hansen)
Alleged victim:	The complainant
State party:	Denmark
Date of complaint:	10 May 2010 (initial submission)
Date of decision:	28 November 2014
Subject matter:	Expulsion of the complainant to Ethiopia
Procedural issue:	None
Substantive issue:	Risk of torture upon return to the country of origin
Article of the Convention:	3

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Annex

Decision of the Committee against Torture under article 22 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (fifty-third session)

concerning

Communication No. 458/2011

Submitted by:	X. (represented by counsel, Niels-Erik Hansen)
Alleged victim:	The complainant
State party:	Denmark
Date of complaint:	10 May 2010 (initial submission)

The Committee against Torture, established under article 17 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment,

Meeting on 28 November 2014,

Having concluded its consideration of complaint No. 458/2011, submitted to the Committee by X. under article 22 of the Convention,

Having taken into account all information made available to it by the complainant, her counsel and the State party,

Adopts the following:

Decision under article 22, paragraph 7, of the Convention against Torture

1.1 The complainant is X., a national of Ethiopia, born in 1983. She currently resides in Denmark. She claims that her return to Ethiopia by Denmark would violate article 3 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. She is represented by counsel.

1.2 On 25 March 2011, 10 May 2012, and 6 March 2013 in application of rule 114, paragraph 1, of its rules of procedure, the Committee, acting through its Special Rapporteur on new communications and interim measures, rejected the author's request.

The facts as presented by the complainant

2.1 The complainant is an unmarried woman of Oromo ethnicity from a small village in the west of Ethiopia. She claims to have been tortured by the authorities in Ethiopia on account of her and her father's political activities in the Oromo Liberation Front. The complainant's mother and siblings live in Ethiopia. Her father disappeared after being arrested by the authorities for his activities in the Oromo Liberation Front, around four years before the complainant's arrival to Denmark.

2.2 According to the complainant, her father was a fighter for the Oromo Liberation Front and collected money for its cause. The complainant also collected money, distributed

leaflets and t-shirts. Because of her father's and her own activities in the Oromo Liberation Front, the complainant submits that she was imprisoned several times between the age of 17 and 24 and exposed to torture. According to the complainant, during her arrests she was beaten, her nipples were clamped and her breasts were pulled in opposite directions, her vagina lips were covered with burning pepper, she was forced to stand barefoot or kneel on sharp gravel for several hours with weight on her arms and shoulders. Because of the brutal treatment the complainant suffered, she does not remember the specific dates and places of detention. It was her impression that the authorities wanted to get information from her about people working for the Oromo Liberation Front. They released her in order to collect new information and then to detain and torture her again.

2.3 Her escape from Ethiopia was arranged in August 2007. However, the escape was organized with an agent who turned out to be involved in human trafficking, and the complainant was raped on the way to Scandinavia by him and other men. The Danish Refugee Appeals Board, in its decision of 17 October 2008, found in this connection that the complainant had been exposed to sexual abuse.

2.4 The complainant arrived in Denmark on 1 September 2007 and applied for asylum on the same day. The Danish Immigration Service rejected her asylum request on 9 June 2008 and ordered her deportation. Its decision was upheld by the Danish Refugee Appeals Board on 17 October 2008. On 25 February 2009, the complainant requested the Refugee Appeals Board to reopen the case, submitting that there had been a misunderstanding during the interview with the police at the beginning of the asylum proceedings owing to her mental state and interpreting problems. On 9 June 2009, the complainant submitted to the Refugee Appeals Board a report dated 2 June 2009 of the Amnesty International medical group. On 13 January 2010, the complainant informed the Refugee Appeals Board that, while preparing her departure, she was not able to locate her family and feared that they had been killed in a massacre against the Oromo population. On 4 March 2010, the Refugee Appeals Board reaffirmed its original decision of 18 October 2008. It stated that the complainant's motive for asylum raised substantial doubts, even taking into account the available information about the complainant's health and the allegation that her family had been imprisoned in connection with the imprisonment of her father. The Board stated that there had been no asylum-relevant persecution when the complainant left Ethiopia because, from her alleged arrest four years before her arrival in Denmark until the time of departure, the complainant, her mother and brothers had had no problems with the authorities. The complainant left Ethiopia because her mother had arranged for her to be taken from the country by a man whom the complainant did not know. The Refugee Appeals Board did not find the complainant to be in danger of persecution upon return to Ethiopia on the basis of her Oromo ethnicity, despite the assaults against the Oromo population allegedly perpetrated by the Gumuz militia in May 2008. The Board also rejected the complainant's allegation of interpreting problems. The Board rejected the complainant's request that the case be reopened, on the grounds that essentially no new information had been submitted. It also stated that the Amnesty International medical group report could not be considered because of the late submission, which the complainant failed to justify. On 10 February 2011, the complainant was informed by the Immigration Service that there was no reason to extend the date of her departure further.

2.5 In the Amnesty International medical group report of 2 June 2009, the physical findings were said to be compatible with the torture forms described by the complainant. The scars on her knees and under her legs and feet supported her claim that she had been made to stand barefoot or kneel for several hours on sharp gravel with weights on her arms and shoulders. The headache, bodily pains and abdominal pains and infections suffered by

the complainant were found to be typical for someone exposed to the described maltreatment. The complainant was diagnosed with post-traumatic stress disorder, registering a score of 3.4 on the basis of the Harvard Trauma Questionnaire.[1] The report included that the complainant had not brought up allegations of torture previously, possibly owing to her more recent trauma caused by the rapes in connection with the escape from her country. The report also noted that the complainant seemed to have been ignorant of the possible significance to the asylum case of her political activities, imprisonment and torture.

2.6 The complainant claims that the Refugee Appeals Board failed to conduct a medical examination requested by her in October 2008.

2.7 The complainant submits that the decision of the Refugee Appeals Board of 4 March 2010 is final. The Immigration Service decision of 10 February 2011 not to extend the date of the complainant's departure is also final and cannot be appealed, and thus all domestic remedies have been exhausted.

The complaint

3.1 The complainant claims that her deportation by the State party would be a violation of article 3 of the Convention, since she risks torture in Ethiopia. The complainant alleges that such risk exists because she has already been tortured and that the authorities will torture her again in order to gain new information on her and others' activities in connection to the Oromo Liberation Front.[2]

3.2 The complainant submits that the refusal of the Refugee Appeals Board in October 2008 to carry out medical examination regarding her torture and its subsequent refusal of 4 March 2010 to accept as new evidence the Amnesty International medical group report of 2 June 2009 were in violation of article 3 of the Convention. By refusing to reopen the case, the Refugee Appeals Board denied the complainant a possibility to present new evidence in her case.

State party's observations on the admissibility and the merits

4.1 On 27 September 2011 the State party submitted its observations on the admissibility and the merits. It requested the Committee to declare the complaint manifestly unfounded pursuant to article 22, paragraph 2, of the Convention and therefore inadmissible owing to the failure by the complainant to establish a prima facie case that she would be in danger of being subjected to torture if returned to Ethiopia.

4.2 The State party submits that the complainant is trying to use the Committee as an appellate body to have the circumstances of her asylum claim reassessed. In this regard, the State party refers to paragraph 9 of general comment No. 1 of the Committee, which states that, when exercising its jurisdiction pursuant to article 3 of the Convention, the Committee will give considerable weight to findings of fact made by agencies of the State party concerned. The State party further states that the decision on the present case was made by the Refugee Appeals Board, which is a collegiate body of a quasi-judicial nature, on the basis of a procedure during which the complainant had the opportunity to present her views, both in writing and orally, with the assistance of legal counsel.

[1] A score of 2.5 is consistent with a diagnosis of post-traumatic stress disorder.

[2] See communications No. 339/2008, *Amini* v. *Denmark*, decision adopted on 15 November 2010; No. 322/2007, *Eveline Njamba and her daughter Kathy Balikosa* v. *Sweden*, decision adopted on 14 May 2010; and No. 349/2008, *Mükerrem Güclü* v. *Sweden*, decision adopted on 11 November 2010.

4.3 Concerning its national legislation, the State party notes that, pursuant to section 7, paragraph 1, of the Aliens Act, a residence permit can be granted to an alien if the person falls within the provisions of the Convention relating to the Status of Refugees. For this purpose, article 1.A of that Convention has been incorporated into Danish law. Although that article does not mention torture as one of the grounds justifying asylum, it may be an element of persecution. Accordingly, a residence permit can be granted in cases where it is found that the asylum seeker has been subjected to torture before coming to the State party, and where the substantial fear resulting from the outrages is considered well founded. The permit is granted even if a possible return is not considered to entail any risk of further persecution. Likewise, pursuant to section 7, paragraph 2, of the Aliens Act, a residence permit can be issued to an alien upon application if the alien risks the death penalty or being subjected to torture, inhuman or degrading treatment or punishment in case of return to his country of origin. In practice, the Refugee Appeals Board considers that these conditions are met if there are specific and individual factors rendering it probable that the person will be exposed to a real risk.

4.4 The State party further submits that decisions of the Refugee Appeals Board are made on the basis of an individual and specific assessment of the case. The asylum seeker's statements regarding asylum motive are assessed in the light of all relevant evidence, including general background material on the situation and conditions in the country of origin, in particular whether systematic gross, flagrant or mass violations of human rights occur. Background material is obtained from various sources, including country reports prepared by other Governments as well as information available from the Office of the United Nations High Commissioner for Refugees and prominent non-governmental organizations.

4.5 In cases where torture is invoked as part of the basis for asylum, the Refugee Appeals Board may request the asylum seeker to be examined for signs of torture. The decision as to whether it is necessary to undertake a medical examination is made at a Board hearing and depends on the circumstances of the specific case, such as the credibility of the asylum seeker's statement about torture.

4.6 The State party submits that, in the present case, the Refugee Appeals Board conducted a comprehensive and thorough examination of the evidence of the case and found it not to be substantiated that the complainant would be personally at risk of being subjected to torture if returned to Ethiopia. In particular, the complainant had had no problems with Ethiopian authorities since her alleged imprisonment three or four years before her departure from Ethiopia, and her Oromo ethnicity did not as such expose her to a specific risk of persecution by State agents.

4.7 The State party claims that the complainant's allegations of torture are subject to considerable doubt for several reasons. According to her statement to the police on 1 September 2007, the complainant paid $2,000 to an agent to flee the country. Her motive for asylum was the conditions in Ethiopia. In her claim to the Danish Immigration Service, the complainant stated that she was afraid that, if returned to Ethiopia, she would be arrested by the authorities because of her Oromo origin. She was also afraid that her mother would become angry and send her abroad again. There was no mention by the complainant of helping her father in his political activities, being detained, questioned or subjected to torture in either the police report of 1 September 2007 or the asylum registration reports of 7 and 13 September 2007, or during the interview with the Danish Immigration Service on 14 March 2008. The complainant first mentioned that she had helped her father in connection to his political work after two meetings with the assigned counsel before the Refugee Appeals Board hearing on 17 October 2008, after the Immigration Service had

refused to issue her a residence permit.[3] At that hearing, the complainant also informed the Board about her and her family's detention in connection to her father's activities and that they had been forced to run barefoot on gravel. The repeated detention of the complainant, including in secret prisons in connection with her and her father's activities relating to the Oromo Liberation Front, as well as her extensive torture, was only mentioned in the Amnesty International report in June 2009. The State party finds it unlikely that the complainant would withhold such crucial information during the entire course of the asylum proceedings and supports the decision of the Refugee Appeals Board to disregard the alleged incidents.

4.8 The State party further addresses the justification for late submission of such important information, namely, the statement in the Amnesty International report of 2 June 2009 about the complainant's apparent lack of awareness that information on her political activities, imprisonments and torture was of importance to her application for asylum. In this context, the State party observes that, in the introductory phase of asylum proceedings, the police provides detailed guidance both in writing and orally to asylum seekers about their duty to provide the information required to decide their application for asylum. In the present case, the complainant confirmed her statement and signed the asylum registration reports of 7 and 13 September 2007 after they were read out to her. The same guidance was given by the Immigration Service before the interview. The report of the interview with the Immigration Service of 14 March 2008 was also translated and reviewed by the complainant, who had an opportunity to make comments to it. No comments were made when the complainant signed the interview report. The complainant had an experienced asylum counsel assigned to her with whom she had two meetings before the hearing at the Refugee Appeals Board. Despite all of the above, even at the Refugee Appeals Board hearing on 17 October 2008, the complainant failed to explain the motive for applying for asylum. For the above reasons, the State party considers that the justification for the late submission of the crucial information submitted in the Amnesty International report must be rejected.

4.9 Regarding the interpreting problems alleged by the complainant, which resulted in incorrect information about her political activities and problems with the authorities in Ethiopia, the State party observes that no such problem appeared after the asylum registration report of 7 September 2007, when the complainant signed the interview report of the Immigration Service or at the Refugee Appeals Board hearing, where an Oromo interpreter was present. The State party thus considers that there is no basis to believe that there is information in the present case that has not been brought to light owing to interpreting problems.

4.10 Addressing the complainant's claim that the Refugee Appeals Board committed an error in not requesting her to be examined for torture on 17 October 2008, the State party submits that the complainant did not request such an examination. Moreover, the plea submitted to the Refugee Appeals Board contained no information about her detention and torture. It was only at the hearing itself that the torture was mentioned by the complainant. Therefore, the State party does not find an error in the decision of the Refugee Appeals Board not to request a medical examination.

4.11 Regarding the allegation of the complainant that the refusal of the Refugee Appeals Board of 4 March 2010 to reopen the proceedings prevented her from submitting new substantial evidence, including the report on torture by Amnesty International of 2 June 2009, the State party states that the Refugee Appeals Board did in fact consider the

[3] The type of the residence permit and the date of the decision of the Immigration Service are not specified.

information presented by the complainant. However, the Board found the information on torture non-credible. The State party observes that a person subjected to torture may find it difficult to talk about it owing to trauma or other blocks. At the same time, the statement in the Amnesty International medical group report that the objective findings of a person who is examined are compatible with the person's information about torture given to the medical group, cannot as such be considered adequate proof that the findings described and the person's mental state have in fact arisen in the manner stated by the person at the medical examination. This applies in particular when information about torture is submitted at a very late stage of the proceedings, even though the complainant has previously had several opportunities to provide such information. In the present case, not only did the complainant submit the information very late, but she also changed and added information several times, which gave rise to considerable doubt.

4.12 Should the Committee find the complaint admissible, the State party argues that the complainant has not established that her return to Ethiopia will put her in danger of being subjected to torture, in violation of article 3 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. It further states that article 3, paragraph 1, of the Convention requires that the individual concerned must face a foreseeable, real and personal risk of being tortured in the country to which he is to be returned and that the risk of torture must be assessed on grounds that go beyond mere theory or suspicion, although it does not have to meet the test of being highly probable.[4] The existence of a consistent pattern of gross, flagrant or mass violation of human rights in a country does not, as such, constitute a sufficient ground for determining that a particular person would be in danger of being subjected to torture upon his return to that country.[5]

Complainant's comments on the State party's observations

5.1 On 29 October 2011, the complainant submitted her comments on the State party's observations. With her comments, the complainant also submitted a declaration of 27 March 2011 from the Oromo Liberation Front that states that the complainant is an active member of the Oromo Liberation Front.[6] Regarding the State party's claims that the information about the torture was submitted at a very late stage, the complainant submits that, at her first interview with the Danish police, the police officers should have observed that she had scars all over her feet, legs and knees as a result of the torture she had suffered in her country and should have asked about her asylum motive, including her political activities.

5.2 The complainant argues that she has made a prima facie case under the Convention and that the fact that she was already a victim of torture and her involvement with the Oromo Liberation Front makes it highly probable that she will again be at a personal risk of

[4] See communications Nos. 270/2005 and 271/2005, *E.R.K. and Y.K.* v. *Sweden*, decision adopted on 30 April 2007, paras. 7.2 and 7.3; No. 282/2005, *S.P.A.* v. *Canada*, decision adopted on 7 November 2006, paras. 7.1 and 7.2; No. 180/2001, *F.F.Z.* v. *Denmark*, decision adopted on 30 April 2002, paras. 9 and 10; and No. 143/1999, *S.C.* v. *Denmark*, decision adopted on 10 May 2000, paras. 6.4 and 6.6. See also general comment No. 1 of the Committee against Torture.

[5] See communications No. 220/2002, *Ruben David* v. *Sweden*, decision adopted on 2 May 2005, para. 8.2; No. 245/2004, *S.S.S.* v. *Canada*, decision adopted on 16 November 2005, para. 8.3; Nos. 270/2005 and 271/2005, *E.R.K. and Y.K.* v. Sweden, decision adopted on 30 April 2007, paras. 7.2 and 7.3; and No. 286/2006, *M.R.A.* v. *Sweden*, decision adopted on 17 November 2006, para. 7.3.

[6] The declaration states that the complainant is an active member of the Oromo Liberation Front, without providing any details.

torture. She asserts that, by questioning the medical evidence from the Danish Red Cross[7] and the Amnesty International medical group without carrying out itself a neutral medical examination on the fact of torture, the State party violated article 3 of the Convention.

5.3 Regarding the country of origin information, the complainant notes that the State party failed to provide information on why the Refugee Appeals Board did not adjourn the proceedings to collect new country information about the assault on Oromo people in 2008.

5.4 The complainant refers to communication No. 339/2008, *Said Amini* v. *Denmark*,[8] in which the Committee found a violation of article 3 of the Convention, to point out the similarity between that case and her own.

State party's further submission

6.1 On 2 January 2012, the State party submitted further information.

6.2 Referring to the complainant's allegation that the Danish police officers should have observed that she had scars all over her feet, legs and knees, and should also have questioned her about her asylum motive, the State party observes that it is not the job of the police to establish the motive for asylum and much less to carry out a physical examination of asylum seekers. The police provides detailed guidelines to the asylum seekers about their duty to provide information on their asylum motive. The police also drafts a report on the basis of the information submitted by the asylum seeker. This report is read out to the asylum seeker and is signed by him or her.

6.3 The State party rejects the complainant's claim about questioning by the Refugee Appeals Board of the Amnesty International medical group findings on her torture. The State party submits that, although the Board did not question the findings of the medical report, the objective findings of the Amnesty International medical group cannot be accepted as a proof that the complainant incurred the injuries in the manner stated by her. Thus, for instance, the finding of scars does not mean that the complainant has been subjected to torture.

6.4 On 14 June 2012 the State party submitted to the Committee the observations of the Refugee Appeals Board to the complainant's additional comments. The opinion of the Board concerns the report of the Amnesty International medical group of 2 June 2009. The Board states that it does not doubt that the complainant has scars on her body, but, having made an overall assessment of all the evidence in the case, together with the medical report, the Board could not consider that the scars on the complainant's body had come about in the manner described by the complainant. It also noted that the Amnesty International report did not conclude that the complainant had been subjected to the outrages claimed.

6.5 Regarding the complainant's submission that no medical examination was requested by the Board, the State party refers to its original comments on admissibility and merits and reiterates that there was no reason for it to request such an examination. In its original submission, the State party explained that the information about torture had been submitted by the complainant at a very late stage, namely, at the hearing by the Refugee Appeals

[7] The complainant submitted to the Committee the translation of the Danish Red Cross medical report of 24 September 2008, which mentions that the complainant and her family were allegedly detained and mistreated and that the complainant was allegedly sold by her mother to a Somalian man and raped by him and other men on her way to Europe. The report includes that the complainant was very exhausted physically and mentally but that, by the time the report was made, her condition had improved thanks to the medical and psychological treatment received. The report does not provide any details of medical examination or traces of torture.

[8] Decision of 15 November 2010.

Board, and that no request had been made by the complainant for a medical examination to be carried out by the State party (see para. 4.10).

6.6 The State party points out that the Refugee Appeals Board fully considered the complainant's claim about the assaults against the Oromo population in Ethiopia in 2008. The Board specifically considered whether there was a risk of the complainant being subjected to outrages in her country owing to her ethnicity and came to the conclusion that there was no risk of persecution for the complainant on this ground. In that light, the Board decided to dismiss the complainant's request for adjournment of the proceedings. Thus, the allegation of the complainant that the Board had given no reason for its refusal to adjourn the proceedings is not correct.

6.7 The State party disagrees with the complainant regarding the similarity between the case of *Said Amini* v. *Denmark* and the complainant's case. The State party states that, unlike Said Amini, the complainant has developed her statements continuously during the proceedings up until the Board's decision of 17 October 2008 and during the proceedings in connection with the request for reopening of the proceedings. The complainant's statements have developed from not knowing what party her father was a member of to participating actively herself in the political work of the Oromo Liberation Front, having been imprisoned for several times and having been questioned and subjected to torture in that connection.

Complainant's further submission

7. On 15 September 2012, the complainant submitted her comments on the State party's submission that the Amnesty International report of 2 June 2009 does not conclude that she had been subjected to the outrages claimed. The complainant argued that the report concluded that "The objective physical observations are comparable with the described forms of torture" and that her scars in particular "must be regarded as findings that greatly support [her] explanation". The complainant further states that since the Amnesty International report concludes that she was a victim of torture, the State party should reopen the case.[9]

Issues and proceedings before the Committee

Consideration of admissibility

8.1 Before considering any claims contained in a communication, the Committee must decide whether it is admissible under article 22 of the Convention. The Committee has ascertained, as it is required to do under article 22, paragraph 5 (a), of the Convention, that the same matter has not been, and is not being, examined under another procedure of international investigation or settlement.

8.2 The Committee recalls that, in accordance with article 22, paragraph 5 (b), of the Convention, it shall not consider any complaint from an individual unless it has ascertained that the individual has exhausted all available domestic remedies. The Committee notes that, in the present case, the State party has not raised any concerns regarding the exhaustion of all available domestic remedies by the complainant.

[9] The author refers to the communication of *Senait Abreha* v. *Denmark*, decision on discontinuance of 14 May 2012. In that case, the Danish Refugee Appeals Board had failed to perform a medical examination of alleged torture and the complainant had her asylum claim rejected. After that, the complainant obtained a medical report from Amnesty International and applied to the Committee, which granted provisional interim measures. The Danish Refugee Appeals Board reopened the case and subsequently granted asylum to the complainant.

8.3 The State party submits that the complaint is inadmissible as manifestly unfounded. The Committee considers, however, that the arguments put forward by the complainant raise substantive issues, which should be dealt with on the merits. Accordingly, the Committee finds no obstacles to the admissibility and declares the communication admissible.

Consideration of the merits

9.1 In accordance with article 22, paragraph 4, of the Convention, the Committee has considered the present complaint in the light of all information made available to it by the parties concerned.

9.2 The issue before the Committee is whether the expulsion of the complainant to Ethiopia would constitute a violation of the State party's obligation under article 3 of the Convention not to expel or to return (refouler) a person to another State where there are substantial grounds for believing that he or she would be in danger of being subjected to torture. The Committee must evaluate whether there are substantial grounds for believing that she would be personally in danger of being subjected to torture upon return to Ethiopia. In assessing this risk, the Committee must take into account all relevant considerations, pursuant to article 3, paragraph 2, of the Convention, including the existence of a consistent pattern of gross, flagrant or mass violations of human rights. However, the Committee recalls that the existence of a pattern of such violations does not as such constitute sufficient reason for determining that a particular person would be in danger of being subjected to torture on return to that country; additional grounds must be adduced to show that the individual concerned would be personally at a risk. Conversely, the absence of a consistent pattern of flagrant violations of human rights does not mean that a person might not be subject to torture in his or her specific circumstances.[10]

9.3 The Committee recalls its general comment No. 1 on the implementation of article 3 of the Convention, in which it states that the risk of torture must be assessed on grounds that go beyond mere theory or suspicion.[11] Although the risk does not have to meet the test of being highly probable, the Committee recalls that the burden of proof normally falls upon the complainant, who must present an arguable case establishing that he or she runs a "foreseeable, real and personal" risk.[12] The Committee recalls that, under the terms of its general comment No.1, it gives considerable weight to findings of fact that are made by organs of the State party concerned, while at the same time it is not bound by such findings and instead has the power, provided by article 22, paragraph 4, of the Convention, of free assessment of the facts based upon the full set of circumstances in every case.

9.4 In the present case, the Committee notes that the complainant claims before the Committee to have been imprisoned and tortured on several occasions in connection with her father's and her own political activity in the Oromo Liberation Front and alleges to be at a risk of new arrests and torture if returned to Ethiopia. The Committee also notes the State party's submission that the complainant's original claim to the State authorities was based on the fear of persecution for her Oromo origin, that allegations of her detention about four years before coming to Denmark were added at a later stage of asylum

[10] See communications No. 426/2010, *R.D.* v. *Switzerland*, decision adopted on 8 November 2013, para. 9.2; No. 344/2008, *A.M.A.* v. *Switzerland*, decision adopted on 12 November 2010, para. 7.2; Communication No. 333/2007, decision adopted on 15 November 2010, para. 7.3.

[11] A/53/44, annex IX.

[12] See, for example, communications No. 414/2010, *N.T.W.* v. *Switzerland*, decision adopted on 16 May 2012, para. 7.3; and No. 343/2008, *Arthur Kasombola Kalonzo* v. *Canada*, decision adopted on 18 May 2012, para. 9.3.

proceedings and the allegations of her repeated detention and detailed information on torture were submitted only after the Refugee Appeals Board hearing, although there were previous opportunities to submit such information. The Committee notes the medical reports submitted by the complainant and the argument by the State party that the conclusions in the Amnesty International medical group report of 2 June 2009 cannot be accepted as a proof of torture. The Committee further notes the complainant's claim that the State party has failed to carry out an independent medical assessment of her allegations of torture and the State party's response that such an examination was neither requested by the complainant nor deemed necessary by the State party owing to the late presentation of information about torture and an overall lack of credibility of the complainant's story.

9.5 Regarding the above observations by the parties, the Committee recalls that ill-treatment suffered in the past is only one element to be taken into account, the relevant question before the Committee being whether the complainant currently runs a risk of torture if returned to Ethiopia.[13] The Committee considers that, even if it were assumed that the complainant was tortured by the State authorities in the past, it does not automatically follow that, at least seven years after the alleged events occurred, she would still be at risk of being subjected to torture if returned to Ethiopia.[14]

9.6 The Committee notes with concern the reports on human rights violations in Ethiopia,[15] including the use of torture and the information submitted by the complainant about the persecution of Oromo Liberation Front activists. It also recalls its concluding observations of 2010, issued in connection with the initial report of Ethiopia, in which it states that it was "deeply concerned about numerous, ongoing and consistent allegations concerning the routine use of torture" by government agents against political dissidents and opposition party members, students, alleged terrorists and alleged supporters of violent separatist groups, such as the Oromo Liberation Front.[16] The Committee notes the arguments of the complainant that she is an active member of the Oromo Liberation Front and the submission of the State party questioning the veracity of this information. On the basis of the information before it, however, the Committee concludes that the complainant failed to provide evidence of her political activity of such significance that would attract the interest of the authorities. The information before the Committee does not show that the complainant has attracted the attention of the Ethiopian authorities since the moment she left the country.

9.7 In the light of the above, the Committee considers that the information submitted by the complainant is insufficient to establish her claim that she would be at a personal, foreseeable and real risk of torture upon being returned to Ethiopia.

9.8 The Committee against Torture, acting under article 22, paragraph 7, of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, concludes that the complainant's removal to Ethiopia by the State party would not constitute a breach of article 3 of the Convention.

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[13] See, for example, communications No. 61/1996, *X.Y. and Z. v. Sweden*, decision adopted on 6 May 1998, para. 11.2; and No. 435/2010, *G.B.M. v. Sweden*, decision of 14 November 2012, para. 7.7.

[14] See, for example, communication No. 431/2010, *Y. v. Switzerland*, decision adopted on 21 May 2013, para. 7.7.

[15] See, for example, A/HRC/WG.6/19/ETH/2. See also Amnesty International, *Amnesty International Report 2013: The State of the World's Human Rights* (London, 2013).

[16] See CAT/C/ETH/CO/1, para. 10.